

REMARKS

Applicant has considered the outstanding official action. It is respectfully submitted that the claims are directed to patentable subject matter as set forth below.

Claims 1-15 and 24 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement, i.e., with respect to claim 1, how one teaspoon can form a base layer, and with respect to claim 24, how the pizza is sliced. Applicant respectfully submits that claims 1-15 and 24 are enabled under 35 U.S.C. § 112, first paragraph. Particularly, the base layer is not comprised of only one teaspoon of flour as stated by the examiner. Rather, the base layer is a formulated flour and a cheese mixture. The base layer mixture is placed onto a suitable cooking pan by evenly distributing the pre-measured amount of the formulated flour onto a pan and then evenly distributing the pre-measured amount of cheese on top of the formulated flour. Thus, the formulated flour and cheese mixture forms the base layer. (See specification, paragraph 19, lines 1-3; paragraph 21, lines 1-6).

Additionally, the formulated flour and cheese mixture forms a base layer when baked such that the food product/crustless pizza as claimed exhibits a texture, consistency and handleable character similar to a

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traditional pizza made with a high carbohydrate dough crust. (See specification, paragraph 30, lines 1-6). Thus, the food product/crustless pizza may be sliced in a manner similar to a traditional pizza having a crust.

Accordingly, claims 1-15 and 24 are enabled under 35 U.S.C. § 112, first paragraph. Withdrawal of the § 112 rejection is respectfully requested.

Claims 1-26 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite based upon the language of claims 1-26, i.e., "low carbohydrate," the language of claims 2, 3, 12, 13, 16 and 22, i.e., "high gluten flour" and the language of claim 24, i.e., "slicing." Applicant has amended the claims to overcome the rejection based on the language "low carbohydrate." Withdrawal of the § 112 rejection based on the language "low carbohydrate" is respectfully requested.

Applicant respectfully submits that the language "high gluten flour" is definite. Gluten is a tenacious elastic protein substance especially of wheat flour that gives cohesiveness to dough. (See attached definition of gluten). Gluten flour is a high-protein, hard wheat flour treated to remove most of the starch (which leaves a high gluten content). (See attached definition of gluten flour). High gluten flour is produced from hard wheat and has a

gluten percentage of about 12 to 14 percent gluten. Some high gluten flours are treated to reduce starch content, raising the gluten content to around 14 percent. High gluten flour is usually reserved for breads that are extra elastic such as bagels and pizza. (See attached definition of high gluten flour). Accordingly, applicant respectfully submits that the term "high gluten flour" is definite and known in the art. As such, the language "high gluten flour" of claims 2, 3, 12, 13, 16 and 22 is definite. Withdrawal of the § 112 rejection based on the language "high gluten flour" is respectfully requested.

Applicant respectfully submits that the language "slicing" of claim 24 is definite. Particularly, the base layer of the crustless pizza comprises a formulated flour and cheese mixture. When the crustless pizza as claimed is baked, it exhibits a texture, consistency and handleable character similar to a traditional pizza made with a high carbohydrate dough crust. (See specification, paragraph 30, lines 1-6). As such, the crustless pizza as claimed may be sliced into desired portions in a manner similar to a traditional pizza having a crust. Accordingly, applicant respectfully submits that the language "slicing" of claim 24 is definite. Withdrawal of the § 112 rejection based on the language "slicing" is respectfully requested.

Accordingly, claims 1-26 are definite under 35 U.S.C. § 112, second paragraph. Withdrawal of the § 112 rejection is respectfully requested.

The pending rejections based on art are as follows:

- (1) Claim 1 under 35 U.S.C. § 102(b) over the cookbook "Fresh Ways with Breakfasts & Brunches;"
- (2) Claims 2-15 under 35 U.S.C. § 103(a) over the cookbook "Fresh Ways with Breakfasts & Brunches" in view of the cookbook "Joy of Cooking;" and
- (3) Claims 1-26 under 35 U.S.C. § 103(a) over the "Crustless Pizza" recipe.

Applicant respectfully traverses these rejections based on the applied art.

Claim 1 claims a food product comprising a base layer being a formulated flour and a cheese mixture. The formulated flour is further claimed as being a dry mixture. The food product is further claimed as being lower in carbohydrates than a traditional pizza-type food product having a crust.

The cookbook "Fresh Ways with Breakfasts & Brunches" discloses a griddle cheesecake being made from a purée including cottage cheese, eggs, sugar, unbleached all-purpose flour, baking powder and lemon zest which is beaten

to produce a smooth batter. The cookbook "Fresh Ways with Breakfasts & Brunches" does not disclose using a formulated flour which is a dry mixture as claimed. Additionally, the cookbook "Fresh Ways with Breakfasts & Brunches" does not disclose a food product which is lower in carbohydrates than a traditional pizza-type food product as claimed.

Accordingly, the cookbook "Fresh Ways with Breakfasts & Brunches" does not teach each and every element of the claimed invention and thus does not anticipate the claimed invention under 35 U.S.C. § 102(b). Withdrawal of the § 102 rejection is respectfully requested.

Claims 2-15 are rejected under 35 U.S.C. § 103(a) over the cookbook "Fresh Ways with Breakfasts & Brunches" in view of the cookbook "Joy of Cooking." Claims 2-10 depend from independent claim 1 which claims a food product as set forth above. Claim 11 is an independent claim and claims 12-15 depend therefrom. Claim 11 claims a crustless pizza comprising a base layer being a formulated flour and a cheese mixture; and at least one food layer. The formulated flour is further claimed as a dry mixture. The crustless pizza is further claimed as being lower in carbohydrates than a non-crustless pizza.

The cookbook "Joy of Cooking" does not make up for the shortcomings of the cookbook "Fresh Ways with Breakfasts

& Brunches" as set forth above. The cookbook "Fresh Ways with Breakfasts & Brunches" does not suggest any motivation to modify the teachings of either cookbook in order to provide the claimed invention. Additionally, the cookbook "Fresh Ways with Breakfasts & Brunches" in combination with the cookbook "Joy of Cooking" does not disclose a crustless pizza which is lower in carbohydrates than a non-crustless pizza. Accordingly, the cookbook "Fresh Ways with Breakfasts & Brunches" in combination with the cookbook "Joy of Cooking" does not render the claimed invention obvious under 35 U.S.C. § 103(a). Withdrawal of the § 103 rejection is respectfully requested.

Claims 1-26 are rejected under 35 U.S.C. § 103(a) over the "Crustless Pizza" recipe. Claims 1, 11, 16 and 22 are the independent claims rejected under § 103(a) over the "Crustless Pizza" recipe. Claim 1 claims a food product and claim 11 claims a crustless pizza as set forth above. Claim 16 claims a method of making a food product comprising preparing a formulated flour, wherein the formulated flour is a dry mixture comprising a high gluten flour and a baking powder. The method further claims distributing a pre-measured amount of the formulated flour evenly onto a cooking pan and distributing a pre-measured amount of a cheese evenly over the formulated flour. The method further

claims optionally adding and distributing evenly a pre-measured amount of at least one food layer over the cheese. The method further claims baking the food product for a suitable time and at a suitable temperature. The food product is claimed as being lower in carbohydrates than a traditional pizza-type food product.

Claim 22 claims a method of making a crustless pizza comprising preparing a formulated flour, wherein the formulated flour is a dry mixture comprising a high gluten flour and a baking powder. The method further claims distributing a pre-measured amount of the formulated flour evenly onto a cooking pan; distributing a pre-measured amount of a cheese evenly over the formulated flour, and distributing a pre-measured amount of a pizza sauce or a tomato sauce evenly over the cheese. The method further claims adding and distributing evenly a pre-measured amount of at least one food layer over the pizza sauce or the tomato sauce, and baking the crustless pizza for a suitable time and at a suitable temperature. The crustless pizza is claimed as being lower in carbohydrates than a non-crustless pizza.

The "Crustless Pizza" recipe discloses a crustless pizza having a sausage base layer evenly spread over a pan with a sauce over the sausage base layer and then topped

with cheese and other toppings. The "Crustless Pizza" recipe discloses that the base layer includes sausage browned with onion, garlic and salt, pepper, red pepper flakes or other seasonings to taste. The "Crustless Pizza" recipe does not disclose a base layer being a formulated flour and cheese mixture wherein the formulated flour is a dry mixture comprising a high gluten flour and a double acting baking powder as claimed. The examiner specifically acknowledges on page 5, fourth full paragraph of the official action, that the "Crustless Pizza" recipe does not teach forming a mixture of high gluten flour and baking. Rather, the "Crustless Pizza" recipe discloses that the base layer is a sausage layer, not a formulated flour and cheese layer. Also, the "Crustless Pizza" recipe discloses that cheese is placed on top of the sauce which is on top of the sausage base layer and is not used in the base layer. The "Crustless Pizza" recipe does not suggest any motivation to modify the teachings therein in order to provide the claimed invention.

It would not have been obvious for one of skill in the art to add a formulated flour and cheese mixture as claimed to the sausage base layer disclosed in the "Crustless Pizza" recipe. Specifically, the "Crustless Pizza" recipe discloses that the cheese is not included in

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the sausage base layer, but is actually two layers above the sausage base layer. Accordingly, the "Crustless Pizza" recipe does not disclose or suggest having a formulated flour and cheese in the base layer as claimed.

The examiner also acknowledges that the "Crustless Pizza" recipe does not teach the baking temperature as claimed and the steps of freezing, thawing and reheating as claimed. Accordingly, the "Crustless Pizza" recipe does not render the claimed invention obvious under 35 U.S.C. § 103(a). Withdrawal of the § 103 rejection is respectfully requested.

Reconsideration and allowance of the claims is respectfully requested.

Respectfully submitted,

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By 

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Attachments - Definition of gluten
- Definition of gluten flour
- Definition of high gluten flour